

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

16-2699

Margarita Medina

(In the space above enter the full name(s) of the plaintiff(s).)

-against- CarePoint Health
Hoboken University
Medical Center
(Sodexo - company)
113 W-60th St New York NY 10023
District 1199 National Union Hospital

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Complaint for Employment
Discrimination

Case No. 16-2699-00846
(to be filled in by the Clerk's Office)

Jury Trial: ☐ Yes ☐ No
(check one)

RECEIVED
JUN 01 2016
AT 8:30
WILLIAM T. WALSH, CLERK

2016 MAY 11 P 7 02

CLERK
U.S. DISTRICT COURT
DISTRICT OF NEW JERSEY
RECEIVED

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Margarta Medina
Street Address	969 Summit Ave Apt 1
City and County	Jersey City NJ 07307
State and Zip Code	07307
Telephone Number	201 918-5808 - work number 201 418-1000 Ex 6555

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	MR NIXON Cruz Job - Title chef
Job or Title (if known)	Managers - work for the hospital
Street Address	CarePoint Health ^{company name} Secor - 113 W-60 St
City and County	Hoboken University Medical Center ^{New York}
State and Zip Code	308 Willow Avenue Hoboken NJ 07030
Telephone Number	201-418-1000 Ex 0 for open
E-mail Address (if known)	press care point

Defendant No. 2

Name	Jaimi Hirsch Administrative -
Job or Title (if known)	Administrative Organizer 1199
Street Address	District 1199 National Union
City and County	925 Alling Street, 3 floor Newark, New Jersey 07102

State and Zip Code _____
Telephone Number _____
E-mail Address _____
(if known) _____

Defendant No. 3

Name _____
Job or Title _____
(if known) _____
Street Address _____
City and County _____
State and Zip Code _____
Telephone Number _____
E-mail Address _____
(if known) _____

Defendant No. 4

Name _____
Job or Title _____
(if known) _____
Street Address _____
City and County _____
State and Zip Code _____
Telephone Number _____
E-mail Address _____
(if known) _____

C. Place of Employment

The address at which I sought employment or was employed by the defendant(s)
is:

Name _____
Street Address _____
City and County _____
State and Zip Code _____
Telephone Number _____

II. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to *(check all that apply)*:

- ☐ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

- ☐ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)

- ☐ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

- ☐ Other federal law *(specify the federal law)*:

- ☐ Relevant state law *(specify, if known)*:

- ☐ Relevant city or county law *(specify, if known)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes (*check all that apply*):

- ☐ Failure to hire me.
- ☐ Termination of my employment.
- ☐ Failure to promote me.
- ☐ Failure to accommodate my disability.
- ☐ Unequal terms and conditions of my employment.
- ☐ Retaliation.
- ☐ Other acts (*specify*): _____

(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)

C. I believe that defendant(s) (*check one*):

- ☐ is/are still committing these acts against me.
- ☐ is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my (*check all that apply and explain*):

- ☐ race _____
- ☐ color _____
- ☐ gender/sex _____
- ☐ religion _____
- ☐ national origin _____
- ☐ age. My year of birth is _____. (*Give your year of birth only if you are asserting a claim of age discrimination.*)
- ☐ disability or perceived disability (*specify disability*)

- E. The facts of my case are as follows. Attach additional pages if needed.

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on *(date)*

- B. The Equal Employment Opportunity Commission *(check one)*:

☐

has not issued a Notice of Right to Sue letter.

☐

issued a Notice of Right to Sue letter, which I received on *(date)*

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct *(check one)*:

☐

60 days or more have elapsed.

☐

less than 60 days have elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing 6-1-, 2016

Signature of Plaintiff

Printed Name of Plaintiff

Margarita Medina
Margarita Medina

B. For Attorneys

Date of signing: _____, 20__.

Signature of Attorney	_____
Printed Name of Attorney	_____
Bar Number	_____
Name of Law Firm	_____
Address	_____
Telephone Number	_____
E-mail Address	_____

May 1, 2016

To Whom It May Concern:

My name is Margarita Medina. My shift at the Hoboken University Medical Center cafeteria begins at 6:00a.m.

On Thursday, February 6, 2014, at approximately 6:10 a.m. I went into the cafeteria to check on my refrigerator. Nothing was expired.

I noticed that on the display, many coconut cakes had been placed on the rack. My co-worker, Maria Sessa, was in the cafeteria also. I mentioned to her that there were too many coconut cakes displayed. I explained that I would take some to CCIS, doctors, and leave the rest on display. Ms. Sessa did not seem upset and just said "OK."

I returned to my station and was talking to my co-worker, Maria Rodriguez. Ms. Rodriguez was mentioning an incident from the day before (2/5/14) that happened regarding ticketing dates on foods. Out of nowhere, Ms. Sessa came out screaming and accusing us of talking about her. I told her that we were not talking about her. All of a sudden Mr. Nixon Cruz came out of his office yelling at the top of his lungs "Stop it, Stop it right now." Continuing with "Shut up, Shut up, I don't want to hear it." I told him to respect me in front of my co-workers, Olga Sanchez, Carlitos the cook, Maria Rodriguez and Maria Sessa. My other co-workers were also close by.

After a couple of hours I was then told to go into the office. Present were Mr. Kelvin Gordon, Les Borys- Dietary Manager, and Mr. Nixon Cruz- Chef.

I was then presented with a *Notice of Corrective Action* dated 2/6/2014. The explanation given on the violation is not accurate. I was never allowed to explain the actual scenario that occurred. I was suspended with one (1) day without pay.

A few months later, I met with Mr. Jaimie Hirsch, Richard – VP Union, Colin Copeland, Mayra – Delegate, along with my two witnesses, Antonio Rivera and Daxa. Never heard an outcome to the meeting.

Months later, at a meeting in Assumption Hall, I was presented with a *Settlement Agreement* from Mr. Jaimie Hirsch, 1199 Union representative. Not dated at all. This Settlement Agreement was never explained to me. No meeting was ever witnessed. My question, when was this "supposed" settlement done? where? I was never notified.

I feel I am being harassed. I want this disciplinary action to be removed from my personnel file. I await your immediate response.

Thank you,

Margarita Medina

March 9th, 2014

To Whom It May Concern;

I, Antonio Rivera, a dietary host in Dietary Dept., was in the Kitchen when the alleged incident between Mrs. Margarita Medina and Mr. Nixon Cruz took place. At no time did I hear any yelling or shouting from Mrs. Medina. Nor did I notice that something wrong was going on between the parties, until Mr. Cruz stepped out of his office, and said, "Stop it; Stop it, right now".

Thank you,
Antonio Rivera

July 09, 2015

To Whom It May Concern:

In regards to a notice given to me dated February 6th, 2014, (see attached copy), Mr. Nixon Cruz states that he asked Dietary Manager Les Borys to come to the office as a witness to Mr. Cruz's claims. I wish to make it clear that Mr. Borys was not present and not working until much later that morning.

Thank you.

Antonio Rivera

SETTLEMENT AGREEMENT

It is agreed among District 1199 J, National Union of Hospital and Health Care Employees AFSCME/ AFL-CIOM (the Union), Hoboken University Medical Center (the Employer) and Margarita Medina that the grievance dated 2/7/2014 is hereby resolved and fully settled in accordance with the following terms.

1. In exchange for the withdrawal of the grievance the parties agree to the following;

The Employer will rescind the suspension notice issued to Ms. Medina on 2/07/14 and reduce this discipline to a Written Warning for the incident which occurred on 2/06/2014.

2. The parties agree that this shall resolve any and all claims on the part of the Union or the Grievant including any monetary claims underlying this Grievance.

3. This agreement is made on a non-precedent setting basis with respect to the interpretation of the Collective Bargaining Agreement, and may not be presented in connection with any other matter regarding the interpretation of the collective Bargaining Agreement in any way. This agreement is not an admission of any violation of the Collective Bargaining Agreement or of any federal, state, or local law.

Signed and accepted by:

Margarita Medina - Grievant

Jaimie Hirsch – Administrative Organizer
1199 J Union

Colin Copeland – Labor Relations Manager
HUMC

July 09, 2015

To Whom It May Concern;

In regards to a notice given to me dated February 6th , 2014,
(see attached copy) Mr. Nixon Cruz states that he asked cook Kelvin Gordon to come
to the office as a witness to Mr. Cruz's claims. I wish to make clear that Mr. Gordon was
not present and not working until much later that morning.

Thank you,

Antonio Rivera

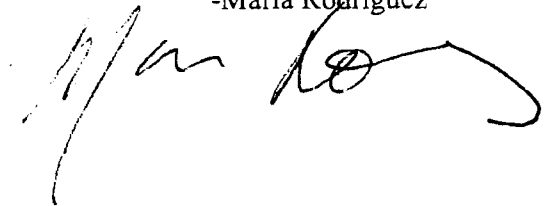
4/27/2016

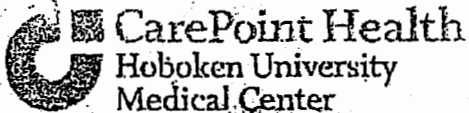
To whom it may concern,

I Maria Rodriguez dietary worker at the time of the incident, I was present next to Miss Margarita Medina. There was no yelling, just myself and Miss Medina having a private conversation, when another coworker passed by and interfere into our conversation and responded in a nasty way questioning if myself and Miss Medina were talking about her. I responded "No". The coworker got upset. Mr. Nixon came out and yelled at Miss Medina saying "stop it, stop it".

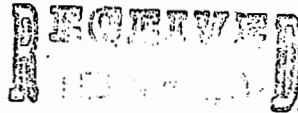
In my opinion, he should have said it to the other coworker as well. I continue my job, later on that day I found out that Miss Medina was suspended but the coworker wasn't. This isn't fair because as a witness Miss Medina was provoked in the situation. I don't understand how cook Kelvin Gordon was a witness of the incident. He was not present the time of the incident. The only people that I had seen in the area were Mr. Antonio Rivera and in the cafeteria was Mrs. Daxa Pandya.

-Maria Rodriguez

A handwritten signature in black ink, appearing to read 'Maria Rodriguez', with a long horizontal flourish extending to the right.



CarePoint Health
Hoboken University
Medical Center



Notice of Corrective Action

BY: _____
Employee Name: Margarita Medina Date of Violation: 2-6-2014
Department: Dietary Date Issued: 2-6-2014
Title: Dietary Worker Date of Hire: _____

It has been brought to our attention that on 2-6-2014 you have violated Hospital Policy and Procedures in the following manner:

This morning Margarita Medina was arguing in the Cafeteria with a coworker telling her that she was not doing her job the right way. The other employee told her that she was told to do it that way by a manager. Margarita came to the kitchen talking about it and got louder to the point that I came out of the office and asked her to calm down. She continued, and I again asked her to end the argument. She responded that "you're not the owner you are just a manager". I asked Kevin to come to me.

This violation has resulted in the following corrective action: Office and she was still very disruptive

x	Current Action	Previous Action Administered / Date
	Documented Counseling	
	Verbal Warning	
	Written Warning	
<input checked="" type="checkbox"/>	Suspension #Days <u>1</u> From: <u>2/7/14</u> To: <u>2/7/14</u>	
	Termination of Employment	

Immediate sustained and satisfactory improvement is necessary. Any additional violation of Hospital policy and procedure will result in further and more severe corrective disciplinary action, including recommendation for your dismissal without further notice.

Employee Statement: (optional)

2014 MAY 11 PM 1:02
Dept. Head Signature: _____ Date: _____
Supervisor Signature: _____ Date: 2/6/14

I have fully read and understand the above notice and acknowledge receipt.

Employee Signature: _____ Date: _____
Witness: A. Smith Date: 2/6/14

Continuation

Margarita was told about two weeks ago not to get this way. she got a written warning, and that resulted to give margarita one day suspension, for not following management directives, and been disruptive at the work place. margarita should know that if this behavior continues it will result to more severe disciplinary action or up to termination of employment.